

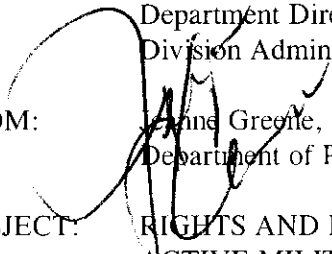


DEPARTMENT OF PERSONNEL

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MEMO PERD #37/01
October 22, 2001

TO: Department Directors
Division Administrators

FROM:  Jeanne Greene, Director
Department of Personnel

SUBJECT: RIGHTS AND BENEFITS OF EMPLOYEES CALLED TO
ACTIVE MILITARY DUTY

As most of you know, some State employees have been called to active military duty to serve in our nation's armed forces or to maintain security at Nevada's local airports. As a result, many questions have arisen regarding the status of these employees as it pertains to their wages and benefits.

As specified in NRS 281.145, State employees must be relieved of their duties for a period of 15 working days per calendar year without loss of their regular compensation to perform military service. For subsequent military duty in the calendar year, these employees have been entitled to go on leave without pay or elect to use annual leave to supplement their military pay.

However, Governor Guinn is very concerned about the long-term impact extended military leave may have on State employees and their families. Therefore, at the Governor's request, the State of Nevada has adopted an emergency regulation that entitles employees on active military duty to receive the difference, if any, between their State pay and their military pay so they will not suffer a financial loss during service to our country. This regulation (See attachment A) became effective Friday, October 12, 2001, and should be implemented in lieu of all other pay policies.

In order for the State to provide differential pay in an accurate and timely manner, employees called for active military duty will be required to:

- Provide a copy of their military orders to the supervisor or agency personnel office.
- Complete appropriate authorization forms. (See attachments B, C and D.)
- Provide a copy of their monthly military leave and earnings statement to the agency pay clerk.
- Provide specific information regarding disbursement of the differential check.

In order to generate differential pay for employees through NDOT or Central payroll, agencies will be required to:

- Submit an ESMT placing the employee on extended military leave. (Specific questions regarding the nature or duration of the employee's active military status should be directed to the State of Nevada Department of the Military.)
- Submit a special pay/time adjustment sheet showing a monthly calculation of differential pay based on the employee's statement of military leave and earnings.

(Please note: Detailed information relative to processing these documents will be sent to personnel representatives and pay clerks.)

The differential pay will be processed through the Integrated Financial System, and it will be paid from each agency's approved budget for Budget Category 01, Object Code 5190. Agencies should work with the Budget Division in addressing any questions or concerns regarding their approved work program or overlap requests.

In addition to the newly established differential pay, I would also like to provide information and guidance regarding the following specific benefits and conditions of employment as they apply to employees who are ordered to active military service.

Health Insurance: If the employee's service-related absence is for 31 days or more, he is eligible to enroll himself and his family in health care coverage provided by the military effective the day he is activated for military duty. The employee is also eligible to purchase continued health care coverage for themselves and their families for up to 18 months in a manner similar to the provisions of COBRA.

When the employee returns from military service within the required reemployment period, he must be provided immediate reinstatement to the State's health insurance coverage with no waiting period or pre-existing condition limitations. (Specific questions regarding the State's health insurance coverage should be directed to the Public Employees Benefits' Program.)

Annual Leave/Sick Leave: Accrual of annual leave and sick leave ceases when the employee goes on extended military leave. However, the period of time an employee is on extended military leave is considered as time worked for the purpose of qualifying for a higher accrual rate.

Longevity Pay: An employee who works a portion of the six-month qualifying period would be entitled to a prorated benefit. The time the person spends on extended military leave is counted as time worked when determining the rate of pay for longevity.

Retirement: While the employee is on extended military leave, there is no break in service, and the military leave is considered service time for purposes of vesting or accruing retirement benefits. This is premised on the requirement that when the employee returns to State service, the agency is required to make any contributions on behalf of the employee's retirement benefit that the agency would have made if the employee had not been absent for military service. If the employee is on employee/employer paid retirement, the employee must make up his share of his retirement contribution, which the agency would match, before service credit is granted. (Specific questions

October 22, 2001

Page 3

regarding payment rates and timeframes should be directed to the Public Employees' Retirement System.)

Reemployment Rights: The employee must apply for reemployment within 90 days following his release from active military service. If he served less than 90 days of active military service, he must be restored to his same position, at the grade and step he would have held had he not served in the military. If he served longer than 90 days, he must be re-employed in his former position or a comparable position having seniority and pay equal to that which he would have held had he not served in the military.

Pay Progression Date: An employee who is re-employed within 90 days following his release from military service retains the pay progression date held at the time he left on military leave. If the employee has not attained the top step in his grade and his last performance evaluation was standard or better, he must receive an increase in pay of one step on his date of record while he is on extended military leave.

Probationary Period: When the employee returns to State service, he also returns to the status of appointment he held at the time he left on military leave. If he was serving a probationary period, he will be required to complete the remaining portion of his probation.

Miscellaneous Benefits: The employer is not obligated to make payment for industrial insurance, unemployment insurance, or retired employees' group insurance while the employee is on military leave.

I hope this clarifies the status of employees who perform extended military service. James T. Spencer, Senior Deputy Attorney General, has reviewed all of this information, and he is in agreement. If you have any questions, please contact my office at 684-0131.

JG:cp

Attachments

cc: Agency Personnel Liaisons
Agency Personnel Representatives

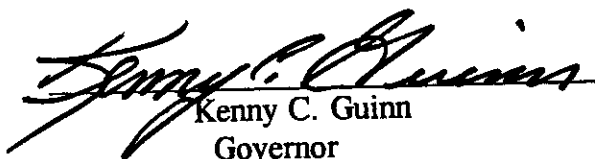
Statement of Emergency: Due to the recent terrorist act on the World Trade Center and the Pentagon and subsequent homeland defense and military action, some State employees who are members of the National Guard or Reserve are being called to active military service. State employees whose State pay is greater than their military pay will experience an economic hardship due to being called to active service. This proposed emergency regulation allows employees to receive the difference between their State pay and their military pay so they will not suffer a financial loss during service to our country.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

Extended Military Leave For Active Military Service

An employee who performs active military service in the Army, the Navy, the Marine Corps, the Air Force, the Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, the Air Force Reserve, the National Guard, Commissioned Corps of the Public Health Service, and any other category of persons designated by the President or the Governor of the State of Nevada in time of war or emergency is entitled to be paid the difference between the gross wages he would have received as a State employee and the gross wages of an active service member. If his gross wages for active service exceed his gross wages as a State employee, he is not entitled to any additional wages beyond those provided due to active military service.

Governor's endorsement of adoption of emergency regulation:


Kenny C. Guinn
Governor

October 12, 2001

Date

**STATE OF NEVADA
DIFFERENTIAL PAY FOR ACTIVE MILITARY DUTY
POLICY AND PROCEDURE**

Policy:

An employee who performs active military service in the Army, the Navy, the Marine Corps, the Air Force, the Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, the Air Force Reserve, the National Guard, Commissioned Corps of the Public Health Service, and any other category of persons designated by the President or the Governor of the State of Nevada in time of war or emergency is entitled to be paid the difference between the gross wages he would have received as a State employee and the gross wages of an active service member. If his gross wages for active service exceed his gross wages as a State employee, he is not entitled to any additional wages beyond those provided due to active military service.

Procedure:

If you are required to perform active military duty while employed by the State of Nevada, you will need to comply with the following in order to receive the difference between your gross State pay (including base pay, special adjustments to salary provided by NAC 284.206, and shift differential pay) and your gross military pay (including base pay plus all allowances with the exception of clothing allowance):

1. Provide a copy of your military orders to your supervisor or to your agency personnel office as soon as you receive them. (Please do not provide security sensitive information that is confidential.)
2. Complete Contact and Disbursement Information Form (ML-2).
3. Provide your agency pay clerk with a copy of your end of month military leave and earnings statement (LES) with a completed Military Leave and Earnings Submittal form (ML-3). Wage differential payments will be made after your monthly LES and completed ML-3 is received.
4. You are responsible for notifying the State of Nevada if your permanent address changes, duty station address changes, and/or directions for disbursement of differential pay changes by completing a ML-3 form. A new Authorization Agreement for Direct Deposit of Net Wages will need to be completed if you wish to start, stop or change direct deposit of your differential pay.
5. Upon your discharge, you are responsible for providing evidence of completion of your active service to your agency personnel office.

I, _____ hereby certify that I have read and understand
(print employee name)
the State's policy regarding Differential Pay For Active Military Duty.

employee signature

date

original - Personnel, Central Records
copy - agency, employee personnel file
copy - employee
ML-1 10/22/01

**STATE OF NEVADA
DIFFERENTIAL PAY FOR ACTIVE MILITARY DUTY
CONTACT AND DISBURSEMENT INFORMATION FORM**

Contact Information

Employee name:
Permanent mailing address:
Telephone number:
Name of contact at this address:

Duty station address:

Telephone number:

Directions for Disbursement of Differential Pay

- ☐ I wish to have my differential pay direct deposited to the account in which my current wages are direct deposited.
- ☐ I have completed a new Authorization Agreement For Direct Deposit of Net Wages.
- ☐ I wish to have my differential pay sent to the following address:

Street address: _____

City, State, Zip: _____

employee signature

date

TO: _____
Contact Person Name, Agency Name

FROM: _____
Employee Name

DATE: _____

SUBJECT: **MILITARY LEAVE AND EARNINGS STATEMENT SUBMITTAL**

Enclosed is a copy of my military leave and earnings statement for the month of _____.

I have noted below any changes to my permanent address, duty station address, and/or directions for the disbursement of my differential pay *:

signature
employee or other responsible person**

date

* Changes to direct deposit require a completed Authorization Agreement for Direct Deposit of Net Wages.

** If other than the employee, please provide copy of power of attorney or other consent document.

original - agency pay clerk